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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/730,788	12/09/2003	Stephen Wayne Metz	GEMS 142193XZ(3880)	4816
7590	10/17/2005		EXAMINER	
Tracey R. Loughlin DOUGHERTY, CLEMENTS & HOFER Suite 300 1901 Roxborough Road Charlotte, NC 28211			KIM, AHSHIK	
			ART UNIT	PAPER NUMBER
			2876	

DATE MAILED: 10/17/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No.	Applicant(s)
	10/730,788	METZ ET AL.
	Examiner	Art Unit
	Ahshik Kim	2876

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 7/25/05 (Amendment).
- 2a) This action is **FINAL**.                                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-24 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1-24 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 25 July 2005 is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
 a) All    b) Some \* c) None of:  
 1. Certified copies of the priority documents have been received.  
 2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
 Paper No(s)/Mail Date \_\_\_\_\_
- 4) Interview Summary (PTO-413)  
 Paper No(s)/Mail Date. \_\_\_\_\_
- 5) Notice of Informal Patent Application (PTO-152)
- 6) Other: \_\_\_\_\_

**DETAILED ACTION**

*Amendment*

1. Receipt is acknowledged of the amendment filed on July 25, 2005. In the amendment
- 5 claims 1-24 were amended. Currently, claims 1-24 remain for examination.

*Drawings*

2. Formal drawings submitted on July 25, 2005 are approved and entered.

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*Claim Rejections - 35 USC § 102*

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

15

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1-24 are rejected under 35 U.S.C. 102(b) as being anticipated by Fellegara et al. (US 5,592,374, hereinafter “Fellegara”).

20

Re claims 1, 3, 10, 12, 13, 16-18, and 22, Fellegara discloses patient identification and X-ray exam data collection system (see abstract; col. 3, lines 13+) comprising patient identification means embodied with patient barcode (col. 3, lines 18+); the x-ray exam information also encoded in the barcode to be read into a header file (col. 2, lines 33+; col. 3, lines 56-62). The medical imaging system adjust the apparatus based on the image parameters retrieved (col. 2, lines 46-61; col. 5, lines 3-14). The parameters which were previously saved can be changed if desired

Re claims 2, 4, 11, 21, and 23, the patient information includes information such as patient name, patient ID, date of birth, sex and other physician and treatment information (col. 9, lines 31+). Although not explicitly stated, the people with proper access authority can modify patient data which is done as a hospital procedure, or by the feature of the database.

5 Re claims 5 and 19, the new label can be printed after the information is updated (col. 9, lines 10-14).

Re claims 6, 7, 14, 15, and 24, patient's coming for an examination (probably based on the physician's diagnosis) is a predetermined event (col. 5, lines 3+). More narrowly, reading the patient's tag or label with an optical scanner can be a predetermined event.

10 Re claims 8 and 9, the medium for collecting the patient information can be a magnetic card (col. 2, lines 9+). Although not explicitly stated, the patient card, like other identification card, would have information regarding the patient, facilities, and insurer information on the card.

Re claim 20, as shown in figure 4, the critical care system 200 is comprised of a scanner, 15 a quality control and data entry work station 202, a high resolution monitor 204 which are connected through cable and the Ethernet connection (col. 7, lines 55+)

#### ***Response to Arguments***

5. Applicant's amendment and remarks filed on July 25, 2005 have been carefully reviewed 20 and considered.

Amended claims are to correct the claim numbers objected in previous Office Action. Accordingly, claim objections are withdrawn.

With respect to the merits of the application, upon careful review of the cited reference and presented claims, it is the Examiner's view that the Fellegara patent discloses claimed subject matter.

As discussed above, Fellegara discloses automated patient-centric data acquisition 5 protocol system. Various patient information includes patient identification information and medical imaging apparatus parameter information (col. 2, lines 47-61; col. 5, lines 3-14). Since the information is encoded in a barcode, and later scanned, such parameter information is automatically retrieved from the coded information (col. 5, lines 15+).

The amended claims and remarks describing these elements have been fully considered, 10 but they are not persuasive, and therefore, the Examiner has made **this Office Action final**.

Examiner forwards some other references, perhaps resemble more to what Applicant considers the claimed invention of the instant application.

15

### *Conclusion*

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE 20 MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event,

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however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

I. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure: Tsuchino (US 6,431,440); Matsuno (US 6,795,572); Takasawa (US 2004/0017894 A1); Pinsky et al. (US 5,513,101); Komatsu et al. (US 5,586,262) disclose automated patient management system. Applicant is respectfully suggested to carefully review these references.

II. Any inquiry concerning this communication or earlier communications from the examiner should be directed to *Ahshik Kim* whose telephone number is (571)272-2393. The examiner can normally be reached between the hours of 6:00AM to 3:00PM Monday thru Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael G. Lee, can be reached on (571)272-2398. The fax number directly to the Examiner is (571)273-2393. The fax phone number for this Group is (703)872-9306.

15 Communications via Internet e-mail regarding this application, other than those under 35 U.S.C. 132 or which otherwise require a signature, may be used by the applicant and should be addressed to [ahshik.kim@uspto.gov].

20 *All Internet e-mail communications will be made of record in the application file. PTO employees do not engage in Internet communications where there exists a possibility that sensitive information could be identified or exchanged unless the record includes a properly signed express waiver of the confidentiality requirements of 35 U.S.C. 122. This is more clearly set forth in the Interim Internet Usage Policy published in the Official Gazette of the Patent and Trademark on February 25, 1997 at 1195 OG 89.*

30 Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished application is available for Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have any questions or access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

35 Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 308-0956.



Ahshik Kim  
Primary Examiner

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October 7, 2005